

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 22, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:03OD-292
OAHU

RESUBMITTAL: Special Acquisition of Private Lands and Set Aside to Department of Education for Educational Purposes, Honouliuli, Ewa, Island of Oahu, City and County of Honolulu, Tax Map Key: (1) 9-1-069:027, from Item M-4 of the September 9, 2010 Land Board meeting.

REMARKS:

The Land Board at its meeting of September 9, 2010, under agenda Item M-4, authorized the acquisition of 18.670 acres from Gentry Homes, Ltd. for a new middle school site in Ewa. Gentry Homes, Ltd. is donating the property at no cost to the State. The Board further approved to recommend to the Governor the issuance of a set aside to the Department of Education.

Unfortunately, the submittal did not include all of the Exhibits. Therefore, we are going to briefly explain each of the Exhibits as follows:

Exhibit A	Map of the project site
Exhibit B	Ms. Fenix Grange, Supervisor for the Department of Health, Hazard Evaluation & Emergency Response Office letter dated March 3, 2009 citing her review of the final report, Follow-up Soil Dioxin Sampling, Ewa Makai Middle School Construction Site dated February 13, 2009 and they have determined that the site currently poses no threat to human health or the environment.
Exhibit C	Right-of-entry Agreement dated February 20, 2009 between the Department of Education and Gentry Homes, Ltd. and subsequent First and

	Second Amendments.
Exhibit D	Sample of the Warranty Deed with Reservations between Gentry Homes, Ltd. and the State of Hawaii. This deed does not require the Landowner to be responsible for further environmental testing. Department of Education has agreed to waive that requirement.
Exhibit E	Sample of the Warranty Deed between Haseko (Ewa) Inc. and the State of Hawaii. The Land Board previously allowed a deviation when Haseko (Ewa) Inc. conveyed to the State 11.725 acres for the Ocean Pointe Elementary School.
Exhibit F	Preliminary Title Report dated June 8, 2010.

On the advice of the Department of the Attorney General, the matter is being re-submitted to the Land Board for its consideration to approve prior recommendations of September 9, 2010. We have attached the submittal, agenda Item M-4 as it should have been with all of the Exhibits A to F.

RECOMMENDATION: That the Board:

1. Re-confirm its approval of September 9, 2010, under agenda Item M-4 including Exhibits A to F.
2. Such other terms and conditions as prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



Charlene Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

STATE OF HAWAII
DEPARTMENT OF EDUCATION
OFFICE OF SCHOOL FACILITIES AND SUPPORT SERVICES
Honolulu, Hawaii 96809

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 03OD-292

OAHU

Special Acquisition of Private Lands and Set Aside to
Department of Education for Educational Purposes,
Honouliuli, Ewa, Island of Oahu, City and County of
Honolulu, Tax Map Key: (1) 9-1-069:027.

APPLICANT AGENCY:

Department of Education

PRIVATE LANDOWNER:

Gentry Homes, Ltd., a domestic profit corporation whose business
and mailing address is
P.O. Box 295, Honolulu, HI 96809

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30, and 302A-1601, Hawaii Revised
Statutes, as amended.

LOCATION:

Privately-owned lands of Gentry Ewa Makai situated at Honouliuli,
Ewa, City and County of Honolulu, Island of Oahu, identified by
Tax Map Key: (1) 9-1-069:027, as shown on the attached map
labeled Exhibit A.

OWNERSHIP:

Tax Map Key No. (1) 9-1-069:027 Gentry Homes, Ltd.

AREA:

18.670 acres, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu CZO: Apartment (A-1)

CURRENT USE:

The Department of Education is constructing classroom buildings and related facilities under a Right of Entry with Gentry Homes, Ltd.

CONSIDERATION:

None. Private landowner is donating the subject lands at no cost to the State.

PURPOSE:

Serves as the campus of a new middle school.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on 12/23/2008 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Place of business registration confirmed:	YES	<u>x</u>	NO	___
Registered business name confirmed:	YES	<u>x</u>	NO	___
Applicant in good standing confirmed:	YES	<u>x</u>	NO	___

APPLICANT REQUIREMENTS:

Applicant has met the following requirements as stated in the Board of Land and Natural Resources July 15, 2008 Letter with Reference No. PSF 030D-292:

1. Applicant has obtained subdivision approval of the subject property as evidenced by the Department of Planning and Permitting's March 10, 2006 letter approving DPP File No. 2004/Sub-227.
2. Applicant has provided a copy of Land Court Map 1304, Land Court Application No. 1069, which was approved by the State Land Surveyor on May 31, 2006.
3. Applicant has submitted a title report for the subject property, issued by First American Title Company dated June 3, 2010.
4. Landowner conducted and submitted two Phase 1 environmental site assessments, dated July 3, 2008 and April 29, 2009, neither of which identified the potential for hazardous materials release or the presence of hazardous materials. Applicant conducted a Phase II environmental site assessment, dated October 23, 2008, which concluded that recognized environmental conditions do not exist

within the subject property and that no further investigation was recommended. Applicant conducted follow-up soil sampling report at the request of the Hawaii Department of Health (HDOH) in February 2009. HDOH then issued a letter of No Further Action (NFA) for the school site on March 3, 2009, a copy of which is attached and labeled Exhibit B. (Applicant thereafter took occupancy of the property pursuant to a Right of Entry to construct the school facilities.) Applicant is prepared to obtain an updated Phase 1 environmental site assessment for the property prior to the conveyance to the State.

REMARKS:

An Education Contribution Agreement ("Agreement") was executed on July 23, 2003, between Gentry Homes, Ltd. ("GHL") and the Department of Education ("DOE") for a school site in Gentry Ewa Makai, a 283-acre private residential development in Honouliuli, Ewa, on the Island of Oahu. In the Agreement, based on a total of 1,865 residential units, GHL agreed to dedicate 18 acres of land, more or less, to the State of Hawaii as an educational contribution to satisfy the DOE's fair-share requirement for school development to serve the planned Gentry Ewa Makai residential project.

The Agreement limits use of the designated school site for public school and ancillary school recreational uses. The DOE is building a middle school campus with school opening slated for the middle of the 2010-2011 school year. GHL granted to DOE a right of entry to construct the school, effective as of February 20, 2009. A copy of the Right-of-Entry Agreement ("ROE") is attached as Exhibit C. GHL and the DOE amended the ROE twice in 2010. The first amendment to the ROE extended the ROE to July 1, 2010. The second amendment to the ROE extends the ROE to August 31, 2010. Both of these amendments to the ROE are included as part of Exhibit C.

This capital improvement project was approved by the Board of Education at its meetings of October 6, 2005 and October 5, 2006. Funding for design and construction of the new middle school was appropriated by the Hawaii State Legislature through Act 160, SLH 2006 (\$3,787,000); Act 213, SLH 2007 (\$66,883,000); and Act 158, SLH 2008 (\$800,000).

Agency comments: Comments were solicited from the following State agencies: Department of Hawaiian Home Lands, Department of Transportation Highways Division, and Office of Hawaiian Affairs; and agencies of the City & County of Honolulu: Department of Planning, Department of Environmental Services, and the Board of Water Supply. None had any comments or objections regarding the proposed school site.

The Board previously approved the acquisition of the subject property at its meeting on July 11, 2008 (PSF No. 030D-292) and

provided that the property shall be deeded to the State "subject to the standard terms and conditions of the most current deed document form, as may be amended from time to time". Certain terms and conditions in that deed form are not applicable to this acquisition because the State has been in possession of the property since February 2009, constructing the middle school campus. Specifically, the standard deed form provides that the grantor (in this case, Gentry Homes) shall be responsible for any hazardous materials testing and for conducting a Phase I environmental site assessment no later than 30 days before the effective date of the deed. Prior to transferring possession of the property to the Department of Education under the ROE, Gentry had a Phase I environmental assessment prepared and updated and provided those studies to the State. Because the State has had possession of and has made substantial changes to the property since that time, GHL does not believe it should be responsible for any further hazardous materials testing of the site. The ROE that DOE signed specifically provides that "The STATE [DOE] shall comply with all applicable laws, statutes, ordinances, rules and regulations, including all environmental requirements, relating to the STATE's construction and other use of the Property. In addition, once the STATE [DOE] commences work on the Property pursuant to this Agreement, GRANTOR shall not be responsible for conducting any further environmental assessments for the Property, and the STATE [DOE] shall be responsible for any hazardous materials used or released on or near the Property by STATE or its agents, employees or consultants."

The ROE mentioned above was entered into solely by the DOE and its lawyers; that ROE is not the DLNR's standard form ROE, and neither the DLNR, BLNR nor any of its attorneys reviewed or approved that ROE signed by the DOE. Accordingly, in the event that the subject property later turns out to have any hazardous materials or environmental conditions, then it is only fair that the DOE bear that responsibility and liability, and not the BLNR, DLNR nor the State.

The GHL is proposing a special deed form (deviation from the standard DLNR/BLNR form), which is attached as Exhibit "D", does not require the Landowner to be responsible for further environmental testing. The Applicant (DOE) has agreed to waive that requirement.

We would like to point out that the Land Board previously allowed a deviation from the "standard deed form" when Haseko (Ewa), Inc. deeded 11.725 acres of land for the then proposed Ocean Pointe Elementary School to the State of Hawaii in 2005. (See Exhibit E.) Haseko's deed form was used as a template in drafting Gentry's proposed deed form.

In addition, Landowner needs to reserve rights to effect dedications of various easements on the property for drainage,

sewer, landscaping and other purposes. The standard deed form did not provide for such reservations; the proposed deed form attached as Exhibit D does. In addition to GHF reserving the right to grant all these different type of easements on the subject property, the Title Report (see last Exhibit attached to this Submittal) indicates that the subject property has a number of encumbrances for easements, use restrictions and even Declarations of Covenants, Conditions and Restrictions (CCRs) that typically require a careful study to determine whether any of these encumbrances contain provisions that simply cannot be accepted by the State (such as waiver of liabilities, indemnities by the grantee back to the grantor, etc.). Since DOE staff (and not DLNR staff) conducted its own due diligence of these encumbrances and the environmental conditions, the DOE (and not the DLNR, BLNR nor the State) should be responsible and liable for any problems that arise from the encumbrances or environmental conditions on the site.

Except as noted herein above, and other than the change in the form of the deed and an updating of the Applicant Requirements (all of which have been satisfied), there are no other changes to the application that was approved by the Board at its July 11, 2008 meeting.

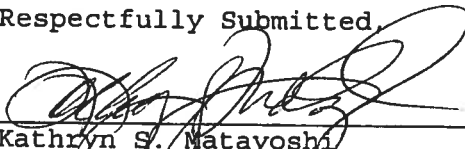
RECOMMENDATION: Subject to the above, that the Board:

1. Authorize the acquisition of the subject private lands subject to the following:
 - A. The terms and conditions of the deed document form that is attached to this application as Exhibit C;
 - B. Review and approval by the Department of the Attorney General;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Education subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Special recitals and conditions to be added to the executive order to make it clear that the DOE (and not the DLNR nor the State) shall be responsible, accountable and ultimately liable for any problems that may arise from encumbrances on the property or

the environmental conditions on the site, as noted herein above.


- C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
- D. Review and approval by the Department of the Attorney General; and
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kathryn S. Matayoshi
Interim Superintendent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

EXHIBIT "A"

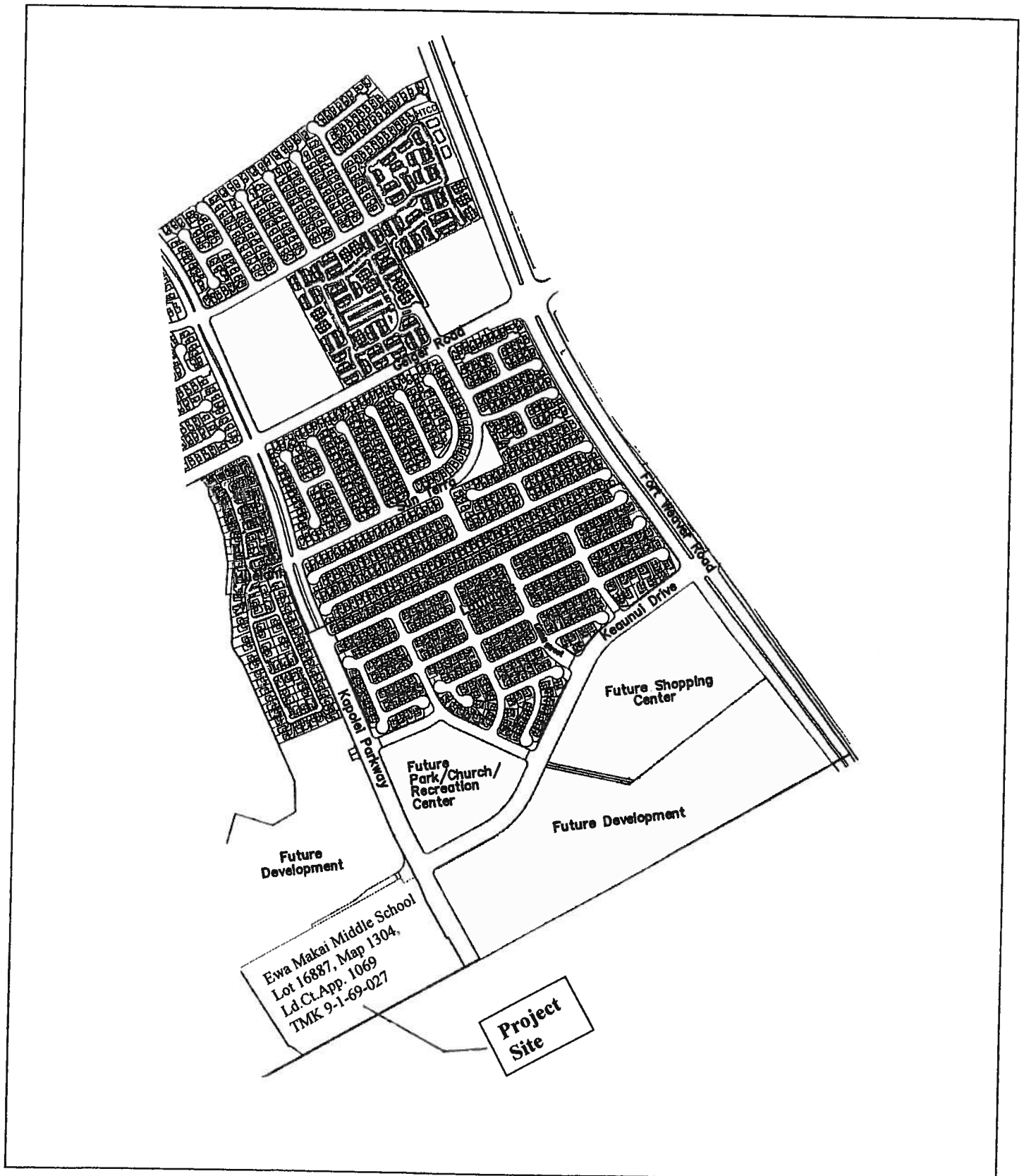


EXHIBIT "B"

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO,
M.D. DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:
09-139 RP

March 3, 2009

Kevin Kennedy
Kevin S. Kennedy Consulting, LLC
533A Ilimano St.
Kailua, HI 96734

Facility/Site: Ewa Makai Middle School Construction Site, Ewa, Hawaii

Subject: No Further Action (NFA) Determination for the Ewa Makai Middle School Construction Site, Ewa, Hawaii.

Dear Kevin,

Mahalo for submitting the final report, "Follow-up Soil Dioxin Sampling, Ewa Makai Middle School Construction Site, Ewa, Hawaii" dated 13 February 2009.

This letter is to inform you that the Hawaii Department of Health, (HDOH), Hazard Evaluation and Emergency Response Office (HEER) has reviewed the above noted report describing the actions taken at the Ewa Makai Middle School Construction Site, Ewa, Hawaii. The results show that the residual Dioxin levels at the site are below the site-specific HDOH Environmental Action Level (EAL) of 450 ng/kg TCDD TEQ. Previous investigation has determined that all other potential contaminants for land historically used for agriculture are also below HDOH EALs. Using this information, the HEER Office has determined that the site currently poses no threat to human health or the environment.

Please be aware that if future information reveals that contaminant exposure at the above-mentioned site becomes a threat to public health, the environment, or natural resources, DOH may require additional response actions to be taken.

Should you have any questions concerning this site, please contact Richard Palmer at 586-4249.

Sincerely,

A handwritten signature in black ink, appearing to read "Fenix Grange".

Fenix Grange, Supervisor
Site Discovery, Assessment and Remediation Section
Hazard Evaluation and Emergency Response Office

EXHIBIT "C"

RIGHT-OF-ENTRY AGREEMENT

THIS AGREEMENT, executed on the respective dates indicated below, is effective as of 2-20-09, between the Department of Education, State of Hawaii (hereinafter referred to as the "STATE"), by its Superintendent, and GENTRY HOMES, LTD., a Hawaii corporation (hereinafter referred to as the "GRANTOR").

WITNESSETH THAT:

WHEREAS, the STATE requires a temporary entry into certain property owned by the GRANTOR located at Honouliuli, District of Ewa, Oahu, State of Hawaii and more particularly described as Lot 16887, Map 1304, Land Court Application No. 1069, Tax Map Key No. (1) 9-1-69-027 (hereinafter referred to as the "Property"), for a public works project, known as the Ewa Makai Middle School (hereinafter referred to as the "Project"), attached hereto as shown on Exhibit "A", and incorporated herein by reference, together with reasonable access thereto along existing roads as identified on the attached Exhibit "A" (the "Access Route"), for the public purpose of conducting construction activities on the Property.

WHEREAS, the STATE is desirous of obtaining immediate entry onto the area shown on Exhibit "A" for construction on the school site prior to the transfer of title; and

WHEREAS, the GRANTOR is desirous of cooperating with the STATE; and

NOW, THEREFORE, in consideration of the promises contained herein, the STATE and GRANTOR agree as follows:

1. **Grant of Entry.** The GRANTOR hereby grants to the STATE, its agents, officers, employees and consultants, permission to enter upon the Property for the purpose of constructing the Project. The STATE shall notify Darian Chun, the Grantor's representative, at 447-8592, at least forty-eight (48) hours prior to the initial entry onto the Property.

2. **STATE responsibility.** In relation to the STATE's use of the Property and work on the Property, the STATE shall be responsible for damages or injury caused by the STATE's agents, officers, employees and consultants in the course of their employment or entry into the Property to the extent that the STATE's liability for such damage or injury has been determined by a court or otherwise agreed to by the STATE, and the STATE shall pay for such damage or injury to the extent permitted by law. The STATE shall be solely responsible for payment of its consultants and shall remove any liens on the Property that result from the failure to make any such payments. GRANTOR shall not be liable to STATE or its consultants or to any other person or entity, in any way as a result of STATE's or its consultants entering and/or conducting activities on any portion of the Property. GRANTOR shall not be liable to STATE or STATE's agents, employees or contractors for damage or injury arising out of their entry onto the Property or conducting of tests or activities on the Property except to the extent Grantor's liability for such damage or injury has been determined by a court or otherwise agreed to by the GRANTOR. The STATE shall comply with all applicable laws, statutes, ordinances, rules and regulations,

including all environmental requirements, relating to the STATE's construction and other use of the Property. In addition, for the duration of this agreement, once the STATE commences work on the Property pursuant to this Agreement, the STATE shall be responsible for conducting any further environmental assessments for the Property that are required by the STATE, and the STATE shall be responsible for any hazardous materials used or released on or near the Property by the STATE or its agents, employees or consultants. The STATE shall promptly address all complaints from homeowners and other users of neighboring properties relating to the dust, noise, traffic and other concerns arising out of the STATE's construction and other activities on the Property by contacting the originator within two business days of being notified about the complaint.

3. Insurance. The STATE shall require its consultants for the Project to purchase and maintain at their expense, the following insurance, naming the GRANTOR as an additional insured, for the term of the Right-of-Entry Agreement:

a. CGL Policy. Comprehensive General Liability Insurance, including automobile accident liability, contingent liability, contractual liability, and products and completed operations with a combined minimum single limit of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury, and property damage and general aggregate limit of Two Million Dollars (\$2,000,000.00) for bodily injury and personal injury. If the policy is written on a "claims made" form, it shall provide for an extended reporting period of not less than three (3) years.

b. Workers' Compensation. Workers' Compensation Insurance as required by applicable law.

c. Employer's Liability Coverage. Employers' Liability Insurance with limits of liability no less than the minimum single limit of One Hundred Thousand Dollars (\$100,000.00).

d. Business Automobile Insurance. Business auto liability insurance with a limit of not less than \$1,000,000.00 per each accident. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos).

4. Insurance; other requirements. The aforesaid insurance policies (except for the Workers' Compensation Policy) shall name the GRANTOR as an additional insured. Prior to entry on the Property, and hereafter within thirty (30) days prior to expiration of any policy providing insurance required by this Agreement, the STATE shall cause its consultants to furnish Grantor with a certificate(s) of insurance, including a copy of the additional insured endorsement naming STATE, Grantor and a copy of the policy declarations page, executed by a duly authorized representative of each insurer, setting out compliance with the insurance requirements set forth above. All certificates shall provide for 30 days written notice to STATE and GRANTOR prior to the cancellation or material change of any insurance referred to therein. The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of

any kind upon the company, its agents or representatives" shall be deleted from the cancellation provision of all certificates provided by the STATE's consultants.

5. Cooperation. The STATE shall coordinate with GRANTOR so that the STATE's activities on the Property, including the activities of the STATE's consultants, in, on, or connected with the Property, do not unreasonably interfere with Grantor's activities on the Property and adjacent lands owned by GRANTOR.

6. Term. The term of this Agreement shall be twelve (12) months from the effective date of this Agreement or upon transfer of title to the STATE, whichever occurs earlier, unless sooner terminated by the STATE or GRANTOR. If this Agreement terminates prior to transfer of title to the STATE, then the STATE shall promptly remove all improvements that it has constructed on the Property, unless GRANTOR has waived such requirement in writing.

7. Heading, captions. The headings and captions used herein are for convenience of reference only and are not to be used to construe, interpret, define, or limit the paragraphs to which they may pertain.

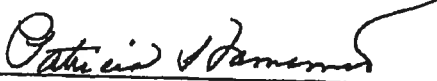
8. Binding effect. The terms "GRANTOR" wherever used herein shall include GENTRY HOMES, LTD., its successors and assigns, and the term "STATE" wherever used herein shall include the State of Hawaii and its consultants. The term "consultant" shall include licensed contractors hired by the STATE for the construction of the Project. This instrument shall be binding upon and shall insure to the benefit of the GRANTOR and the STATE.

9. Amendment. This Agreement shall not be amended except in writing signed by the parties.

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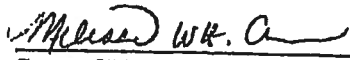
IN WITNESS WHEREOF, the parties execute this Agreement by their signatures, on the dates below, to be effective as of the date first above written.

STATE OF HAWAII

By 
Patricia Hamamoto
Its Superintendent



Date 2.20.09

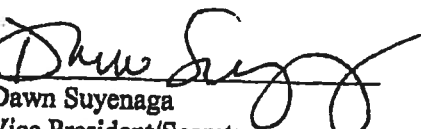
APPROVED AS TO FORM: mc.


State of Hawaii
Deputy Attorney General

Date: 02/19/09

GRANTOR:
Gentry Homes, Ltd.,
a Hawaii corporation

By 
~~Michael J. Brant~~ Robert W. Brant
Its Vice President 

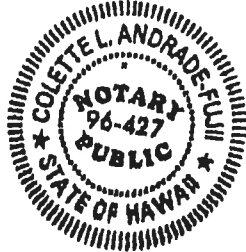
By 
Dawn Suyenaga
Vice President/Secretary

STATE OF HAWAII

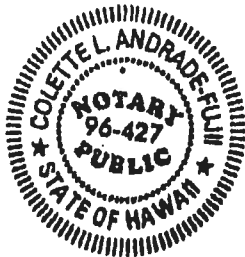
CITY AND COUNTY OF HONOLULU

)
) ss.
)

On February 18, 2009, before me appeared ROBERT W. BRANT and DAWN SUYENAGA, to me personally known, who, being by me duly sworn, did say that they are the President and the Vice President/Secretary, respectively, of GENTRY HOMES, LTD., a Hawaii corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said officers acknowledged said instrument to be the free act and deed of said corporation.



Colette L. Andrade-Fujii
COLETTE L. ANDRADE-FUJII
Notary Public, State of Hawaii
My Commission Expires: July 17, 2012



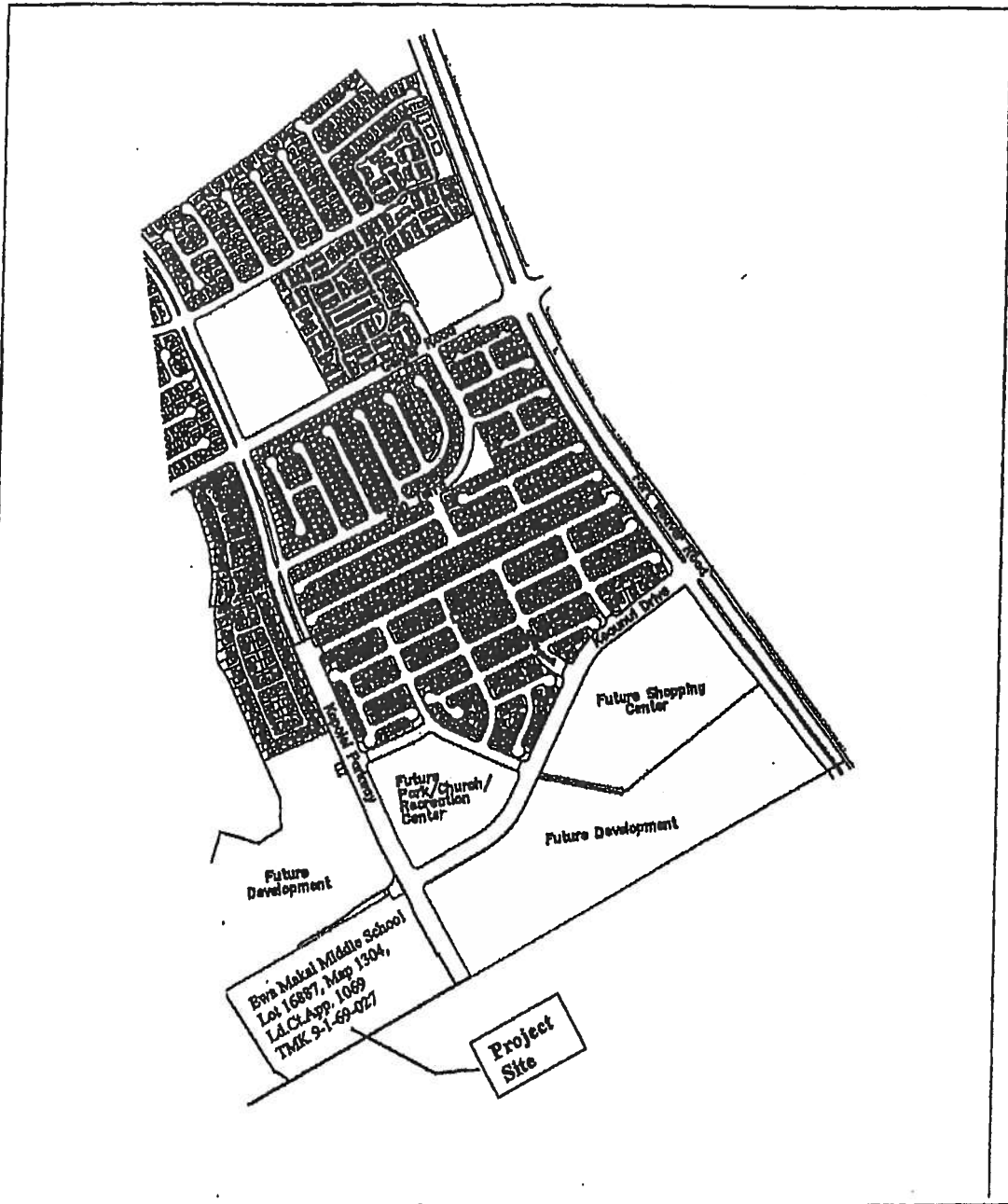
Doc Dated: Undated at time of Notarization # Pages: 6

Name: COLETTE L. ANDRADE-FUJII - First Circuit

Doc. Description: Right of Entry Agreement; Project No. NSA-D08-192 (Honouliuli Ewa ROE for construction).

Colette L. Andrade-Fujii FEB 18 2009
Signature Date
NOTARY CERTIFICATION

EXHIBIT "A"



FIRST AMENDMENT TO THE
RIGHT-OF-ENTRY AGREEMENT FOR
EWA MAKAI MIDDLE SCHOOL

This First Amendment, made this _____ day of _____, 2010, by and between the State of Hawai'i DEPARTMENT OF EDUCATION, (hereinafter referred to as the "STATE"), and GENTRY HOMES, LTD., a Hawaii corporation, (hereinafter referred to as the "GRANTOR".)

WITNESSETH

Whereas, the DOE and the GRANTOR entered into a Right of Entry Agreement on February 20, 2009 (referred to herein as the "Agreement") for property located at Honouliuli, District of Ewa, Oahu, State of Hawaii, Tax Map Key No. (1) 9-1-69-027 (hereinafter referred to as the "Property"), pursuant to which the STATE received temporary entry into the Property owned by the GRANTOR, to construct the public works project known as the Ewa Makai Middle School (hereinafter referred to as the "Project".)

Whereas, the term of the Agreement ends on February 20, 2010, or upon transfer of title of the Property to the STATE, whichever occurs earlier; and

Whereas, construction of the school will not be completed by February 20, 2010; and

Whereas, the transfer of title to the Property to the STATE will not be completed by February 20, 2010; and

Whereas, the Agreement may be amended in writing signed by the parties;

NOW THEREFORE, the GRANTOR and the STATE agree to amend the Agreement as follows:

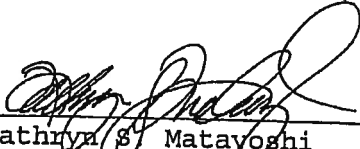
1. The first sentence of Section 6 of the Agreement is hereby amended and replaced with the following:

6. Term. The term of this Agreement shall commence on the effective date of this Agreement and shall end on July 1, 2010, or upon transfer of title to the STATE, whichever occurs earlier, unless sooner terminated by the STATE or GRANTOR.

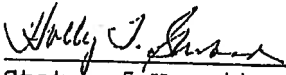
2. All other provisions of the Agreement shall remain unamended and in full force and effect as written.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the date first above written.

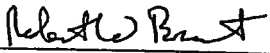
STATE OF HAWAII
DEPARTMENT OF EDUCATION

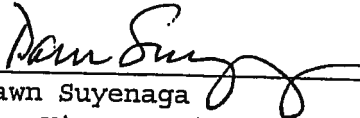
By 
Kathryn S. Matayoshi
Its Interim Superintendent

APPROVED AS TO FORM:


State of Hawaii
Deputy Attorney General
Date: 2-16-10

GRANTOR:
Gentry Homes, Ltd.,
A Hawaii corporation

By 
Robert W. Brant
Its President

By 
Dawn Suyenaga
Its Vice President/Secretary

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 18th day of February, 2010,
before me personally appeared KATHRYN S. MATAYOSHI, to me
personally known, who, being by me duly sworn or affirmed, did
say that such person executed the foregoing instrument as the
free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.

Sharon K.M. Tong Sharon K.M. Tong
Notary Public, State of Hawai'i

Print Name: _____

My commission expires: 11-27-2010

Doc. Date: Undated # Pages: 10
Notary Name: Sharon K.M. Tong 1st Circuit
Doc. Description: 1st Amendment to Right of
Entry Agreement between DUE & Century Homes
for Ewa Makai Middle School
Sharon K.M. Tong 2-18-2010
Notary Signature Date

NOTARY CERTIFICATION

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 19th day of February, 2010,
before me personally appeared ROBERT W. BRANT and DAWN SUYENAGA
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.



Sylvia T. Hayashi
Notary Public, State of Hawai'i
Print Name: SYLVIA T. HAYASHI
My commission expires: 10-26-11

Doc Date: Undated # Pages: 10
Name: SYLVIA T. HAYASHI First Circuit
Doc. Description: First Amendment to the
Right of Entry Agreement for Ewa Malcai Middle School

Sylvia T. Hayashi 2-19-10
Signature Date

NOTARY CERTIFICATION



SECOND AMENDMENT TO THE
RIGHT-OF-ENTRY AGREEMENT FOR
EWA MAKAI MIDDLE SCHOOL

This Second Amendment, made to be effective as of July 1, 2010, by and between the State of Hawai'i DEPARTMENT OF EDUCATION, (hereinafter referred to as the "STATE"), and GENTRY HOMES, LTD., a Hawaii corporation, (hereinafter referred to as the "GRANTOR".)

WITNESSETH

Whereas, the DOE and the GRANTOR entered into a Right of Entry Agreement on February 20, 2009, as amended by First Amendment dated February 19, 2010 (collectively referred to herein as the "Agreement") for property located at Honouliuli, District of Ewa, Oahu, State of Hawaii, Tax Map Key No. (1) 9-1-69-027 (hereinafter referred to as the "Property"), pursuant to which the STATE received temporary entry into the Property owned by the GRANTOR, to construct the public works project known the Ewa Makai Middle School (hereinafter referred to as the "Project".) AS ✓

Whereas, the term of the Agreement ends on July 1, 2010, or upon transfer of title of the Property to the STATE, whichever occurs earlier; and

Whereas, construction of the school will not be completed by July 1, 2010; and

Whereas, the transfer of title to the Property to the STATE will not be completed by July 1, 2010; and

Whereas, the Agreement may be amended in writing signed by the parties;

NOW THEREFORE, the GRANTOR and the STATE agree to amend the Agreement as follows:

1. The first sentence of Section 6 of the Agreement is hereby amended and replaced with the following:

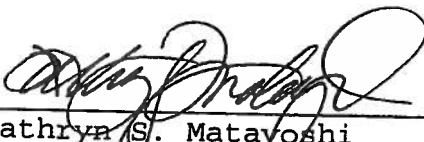
6. Term. The term of this Agreement shall commence on the effective date of this Agreement and shall end on August 31, 2010, or upon transfer of

title to the STATE, whichever occurs earlier, unless
sooner terminated by the STATE or GRANTOR.

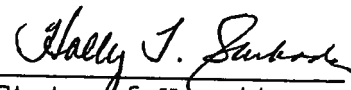
2. All other provisions of the Agreement shall remain
unamended and in full force and effect as written.

IN WITNESS WHEREOF, the parties hereto have caused this
instrument to be duly executed on the date first above written.

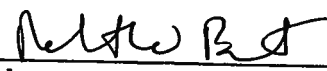
STATE OF HAWAII
DEPARTMENT OF EDUCATION

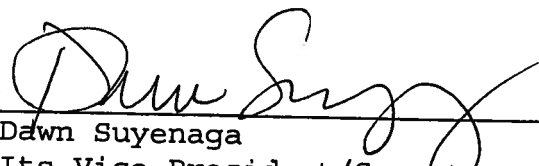
By 
Kathryn S. Matayoshi
Its Interim Superintendent

APPROVED AS TO FORM:


State of Hawaii
Deputy Attorney General
Date: 7-8-10

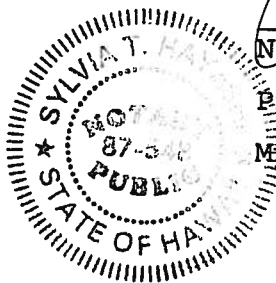
GRANTOR:
Gentry Homes, Ltd.,
A Hawaii corporation

By 
Robert W. Brant
Its President

By 
Dawn Suyenaga
Its Vice President/Secretary

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

On this 12th day of July, 2010,
before me personally appeared ROBERT W. BRANT and DAWN SUYENAGA
to me personally known, who, being by me duly sworn or affirmed,
did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the
capacity shown, having been duly authorized to execute such
instrument in such capacity.



Sylvia T. Hayashi
Notary Public, State of Hawai'i

Print Name: SYLVIA T. HAYASHI

My commission expires: 10-26-2011

Doc Date: July 1, 2010 # Pages: 3

Name: SYLVIA T. HAYASHI First Circuit

Doc. Description: Second Amendment to the

Right of Entry Agreement for Ewa Makai Middle School

Sylvia T. Hayashi 7-12-10
Signature Date

NOTARY CERTIFICATION



EXHIBIT "D"

DRAFT

After Recordation, Return by Pick up:

Gentry Homes, Ltd. – Attn: MD
P. O. Box 295
Honolulu, HI 96809

ITC No. 094-324168

TMK No. (1) 9-1-69:027

WARRANTY DEED WITH RESERVATIONS

KNOW ALL MEN BY THESE PRESENTS:

That, effective as of the _____ day of _____, 20____, **GENTRY HOMES, LTD**, a Hawaii corporation, whose address is Post Office Box 295, Honolulu, Hawaii 96809, hereinafter referred to as the "Grantor", for good and valuable consideration, paid by the **STATE OF HAWAII, by its Board of Land and Natural Resources**, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, hereinafter referred to as the "Grantee," the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee, the Grantee's successors and assigns, that certain parcel of land situate at Honouliuli, Ewa, Oahu, Hawaii, designated as "Proposed Ewa Makai Middle School", being all of Lot 16887, Map 1304, Land Court Application No. 1069, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, containing an area of 18.670 acres, covered by Certificate of Title No. 889,446, more particularly described in Exhibit "A" and delineated on Exhibit "B", both attached hereto and made parts hereof, said exhibits being, respectively, a survey description prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No.24,738 and dated October 30, 2008, and delineated on a copy of Land Court Map 1304.

AND the reversions, remainders, rents, income and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

RESERVING unto the Grantor, and the Grantor's successors and assigns, the right to hold, designate, grant, dedicate, realign, relocate or cancel perpetual easements upon, across, over and under the Property (including the designated easements described in Exhibit "A-1" hereto) for utility purposes (including without limitation sewer, water, drainage, telephone,

telecommunications, cable, gas, and electricity), together with a right of ingress and egress over and across such easement areas and adjacent lands as are reasonably necessary for purposes of conducting dedication inspections, constructing, installing, repairing, replacing, operating and maintaining all improvements and equipment located or to be located within such easement areas provided, however, any easement rights granted pursuant to the rights reserved herein shall not be exercised in a manner which materially interferes with the use of the Property or the improvements constructed or to be constructed thereon for school purposes. Without limiting the foregoing, the Grantor specifically reserves the right for itself, its successors and assigns to have a right of ingress and egress over the portion of Lot 16887, Map 1304, Land Court Application 1069 for purposes of conducting dedication inspections and any construction, repairing, replacing, operating and maintaining of the improvements on Lot 16888, Map 1304, Land Court Application 1069 in order to dedicate said Lot 16888 to the City and County of Honolulu. Without limiting the foregoing, the Grantor further specifically reserves the right for itself, its successors and assigns to record a Grant of Avigation and Noise Easements affecting the Property in favor of the State of Hawaii pursuant to the provisions of that certain Declaration of Land Use Conditions dated February 9, 2004, recorded in said Office of the Assistant Registrar as Document No. 3068154. The rights reserved in this paragraph may be exercised by the Grantor and the Grantor's successors and assigns without notice to or joinder by the Grantee, or any third party.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances, except as noted herein.

The Grantor for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seized in fee simple and possessed of the above-described land and premises, that it has a good and lawful right to convey the same as aforesaid, that the same is free and clear of all liens and encumbrances, except as noted herein, and that it will and its successors and assigns, shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever.

The Grantor agrees to indemnify, defend and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on or about the Property occurring while Grantor was in possession of the Property, or elsewhere if caused by Grantor or persons acting through or under Grantor.

For the purpose of this deed "hazardous material" shall mean any pollutant, contaminant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, as all of the above are defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, Chapter 128D, Hawaii Revised Statutes, or any other federal, state, or local law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced or subsequently enacted.

IN WITNESS WHEREOF, GENTRY HOMES, LTD., the Grantor herein, has caused these presents to be executed this _____ day of _____, 2010, and the STATE OF HAWAII, by its Board of Land and Natural Resources, the Grantee herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be executed this _____ day of _____, 20____, both effective as of the day, month, and year first above written.

GENTRY HOMES, LTD.
a Hawaii corporation

Approved by the Board of
Land and Natural Resources
at its meeting(s) held on

_____.

By _____
Robert W. Brant
Its President

By _____
Dawn Suyenaga
Its Vice President/Secretary

GRANTOR

APPROVED AS TO LEGALITY
FORM, EXCEPTIONS, AND
RESERVATIONS:

STATE OF HAWAII

Deputy Attorney General

Dated: _____

By _____
Chairperson
Board of Land and
Natural Resources

GRANTEE

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On _____, before me appeared **ROBERT W. BRANT** and **DAWN SUYENAGA**, to me personally known, who, being by me duly sworn, did say that they are **the President and the Vice President/Secretary**, respectively, of **GENTRY HOMES, LTD.**, a Hawaii corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation; and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and the said officers acknowledged said instrument to be the free act and deed of said corporation.

Sylvia T. Hayashi
Notary Public, State of Hawaii
My commission expires: October 26, 2011

Doc Dated: _____ # Pages: _____

Name: Sylvia T. Hayashi First Circuit

Doc. Description: Warranty Deed with Reservations:

Signature

Date

NOTARY CERTIFICATION

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On _____, before me personally appeared _____ to me personally known, who being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Printed Name: _____
Notary Public, State of Hawaii
My Commission Expires: _____

Doc Dated: _____ # Pages: _____

Name: _____ First Circuit

Doc. Description: _____

Signature Date

NOTARY CERTIFICATION

EXHIBIT "A"



STATE OF HAWAII
SURVEY DIVISION
DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 24,738

October 30, 2008

PROPOSED
EWA MAKAI MIDDLE SCHOOL

Honouliuli, Ewa, Oahu, Hawaii

Being all of Lot 16887 as shown on Map 1304 Land Court Application 1069, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, containing an AREA OF 18.670 ACRES covered by the Transfer of Certificate of Title 889,446 issued to Gentry Homes, Ltd.

Lot 16887 has access to Kapolei Parkway, a public road, over Lot 16885 (Roadway Access Lot) as shown on Map 1304 of Land Court Application 1069.

Subject, however, to any and all encumbrances that may be noted on Transfer Certificate of Title 889,446.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Gerald Z. Yonashiro
Gerald Z. Yonashiro
Land Surveyor

gy

Compiled from Ld. Ct. Records.

EXHIBIT "A"

THE LAND DESCRIBED IN EXHIBIT "A" HERETO IS SUBJECT, HOWEVER, to the following:

1. Reservation in favor of the State of Hawaii of all mineral and metallic mines.
2. Declaration of Land Use Conditions dated July 12, 1991, recorded in said Office of the Assistant Registrar as Document No. 1836142.
3. Unilateral Agreement and Declaration for Conditional Zoning dated July 12, 1994, recorded in said Office of the Assistant Registrar as Document No. 2163448.
4. Terms and conditions of that certain Notice of Imposition of Conditions by the Land Use Commission dated December 1, 2003 and recorded in the Bureau of Conveyances as Document No. 2003-269381.
5. Declaration of Land Use Conditions dated February 9, 2004, recorded in said Office of the Assistant Registrar as Document No. 3068154.
6. Unilateral Agreement and Declaration for Conditional Zoning dated March 16, 2004, recorded in said Office of the Assistant Registrar as Document No. 3084363.
7. Restriction of vehicular access rights as shown on Map 1304, as set forth by Land Court Order No. 167388, recorded August 28, 2006.
8. Easement 8975, for traffic pavement markings, traffic control signaling, utility and pedestrian crossing purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii.
9. Easement 8976, for traffic pavement markings, traffic control signaling, utility and pedestrian crossing purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii.
10. Easement 8977, for flowage, sewer and drainage purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii, the Ewa by Gentry Community Association, a Hawaii non-profit corporation and the owners of Lots 16885, 16887 and 16888, as shown on Map 1304 and Lots 18046 to 18051 and 18056 to 18058, as shown on Map 1408 and Lots 18755 to 18758, Map 1486 and Lot 17871, as shown on Map 1380 and Lot 17683, as shown on Map 1356; all of Land Court Application No. 1069.
11. Easement 8981, for landscaping and irrigation purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the Ewa by Gentry Community Association, a Hawaii non-profit corporation.

EXHIBIT "A-1"

12. Easement 8983, for landscaping and irrigation purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the Ewa by Gentry Community Association, a Hawaii non-profit corporation.
13. Easement 8994, for irrigation purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the Ewa by Gentry Community Association, a Hawaii non-profit corporation.
14. Easement 9010, for flowage, landscaping and irrigation purposes, as shown on said Map 1304, as set forth by Land Court Order No. 167388, recorded on August 28, 2006. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii and the Ewa by Gentry Community Association, a Hawaii non-profit corporation.
15. Easement 9564 for utility purposes, as shown on Map 1395, Land Court Application No. 1069, as set forth by Land Court Order No. 175341, recorded on June 23, 2008. Said Easement was granted to Hawaiian Electric Company, Inc., a Hawaii corporation and Hawaiian Telcom, Inc., a Hawaii corporation by that certain Grant of Easement dated March 4, 2009 and recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3840793.
16. Easement 9565 for drainage purposes, as shown on Map 1395, Land Court Application No. 1069, as set forth by Land Court Order No. 175341, recorded on June 23, 2008. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii.
17. Easement 9566 for access purposes, as shown on Map 1395, Land Court Application No. 1069, as set forth by Land Court Order No. 175341, recorded on June 23, 2008. The Grantor, its successors and assigns, have reserved the right to have, hold, grant and convey said easement in favor of the City and County of Honolulu, a municipal corporation of the State of Hawaii and the Ewa by Gentry Community Association, a Hawaii non-profit corporation, in order that these two entities may access and maintain drainage facilities currently located on Lot 17263, Map 1324.

END OF EXHIBIT "A-1"

Exhibit "B"

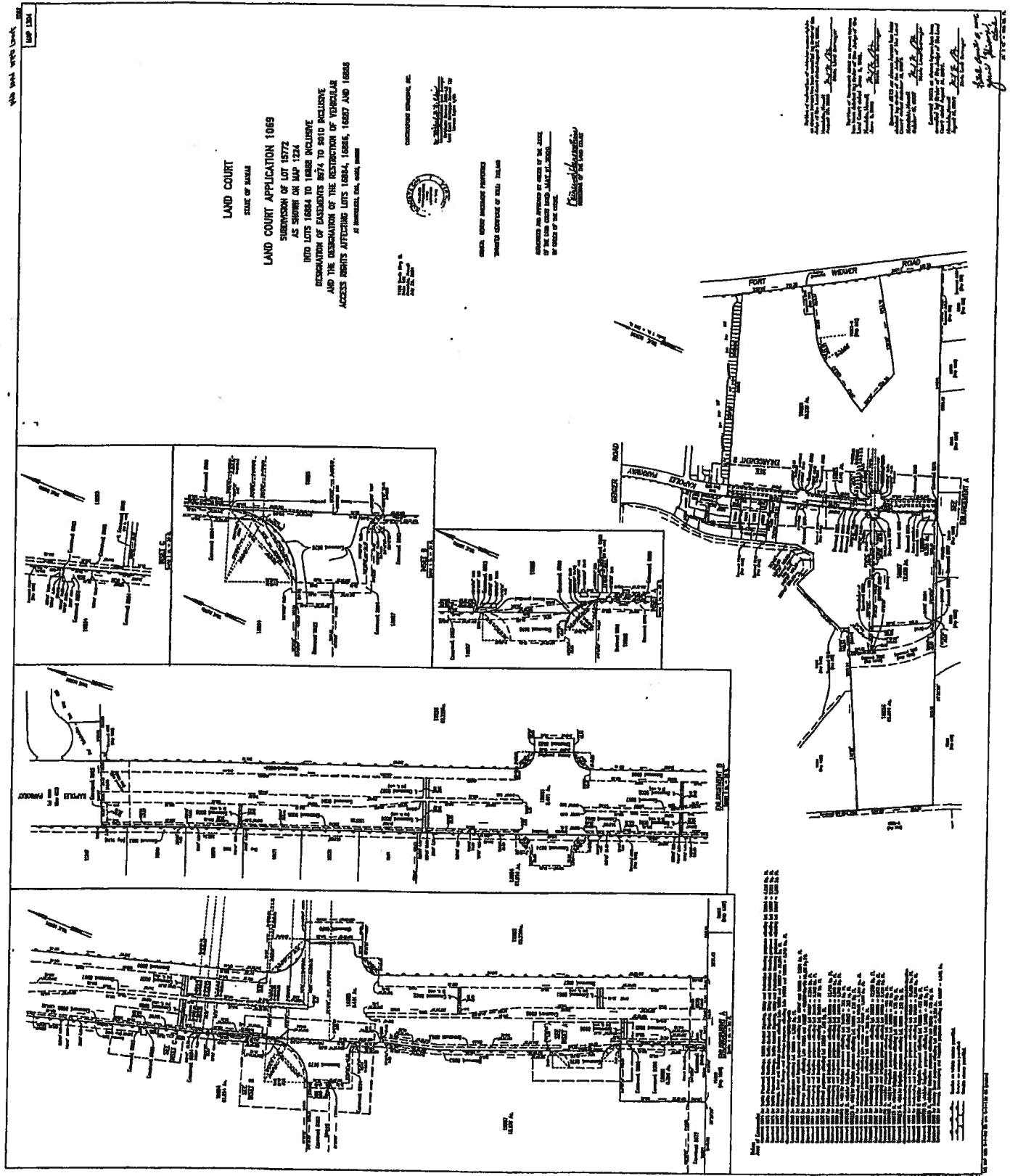


EXHIBIT "E"

NC
15646
C



L-612 STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

APR 28, 2005 03:29 PM

Doc No(s) 3260112

on Cert(s) 735,659

Issuance of Cert(s) 745,943



20 1/1 Z1

/s/ CARL T. WATANABE
ASSISTANT REGISTRAR
CONVEYANCE TAX: \$0.00

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY: MAIL ()

PICKUP (X)

DEPT. OF LAND AND NATURAL RESOURCES
LAND DIVISION

This document contains 10 pages

TYPE OF DOCUMENT:

WARRANTY DEED WITH COVENANTS, RESERVATIONS, AND POSSIBILITY OF
REVERTER

PARTIES TO DOCUMENT:

Grantor: HASEKO (EWA), INC.

Grantee: STATE OF HAWAII, by its Board of Land and Natural Resources
1151 Punchbowl Street, Honolulu, HI 96813

TAX MAP KEY(S) FOR PROPERTY:

(1) 9-1-012-040 (por.)

F:\DOCUMENT\MLFUK\HASEKO\DOEDeed(closing)\00(execution).DOC

WARRANTY DEED WITH COVENANTS,
RESERVATIONS, AND POSSIBILITY OF REVERTER

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the 28th day of April, 2005,
HASEKO (EWA) INC. a Hawaii corporation, whose address is 91-1001 Kaimalie Street, Suite
No. 205, Ewa Beach, Hawaii 96706-5005, hereinafter referred to as the "Grantor," for and in
consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable
consideration to Grantor paid by the STATE OF HAWAII, by its Board of Land and Natural
Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, hereinafter
referred to as the "Grantee," the receipt whereof is hereby acknowledged, does hereby grant,
bargain, sell and convey unto the Grantee and Grantee's successors and assigns, all of that
certain real property described in Exhibit A attached hereto and made a part hereof by reference

DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

(and generally depicted in the map attached hereto as Exhibit A-1 and made a part hereof by reference), subject, however, to the encumbrances noted in Exhibit A-2 attached hereto and made a part hereof by reference.

AND the rents, income and profits thereof, and all of the estate, right, title and interest of the Grantor, therein and thereto.

RESERVING unto Grantor, and Grantor's successors and assigns, the perpetual right to designate, grant, dedicate, realign, relocate, or cancel perpetual easements upon, across, over, and under the property described in Exhibit A hereto (including the designated easements described in Exhibit A-2 hereto) and all for purposes whatsoever including without limitation, easements for pedestrian and/or vehicular access, utility purposes (including without limitation sewer, water, drainage, telephone, telecommunications, cable, gas, and electricity), and such other purposes as Grantor, and Grantor's successors and assigns determines are reasonably necessary or advisable in connection with the development, use, or enjoyment of nearby lands together with a right of ingress and egress over and across such easement areas and adjacent lands as are reasonably necessary for purposes of constructing, installing, repairing, replacing, operating, and maintaining all improvements and equipment located or to be located within such easement areas provided, however, any easement rights granted pursuant to the rights reserved herein shall not be exercised in a manner which materially interferes with the use of the property or the improvements constructed or to be constructed thereon for school purposes. The rights reserved in the immediately preceding sentence may be exercised by Grantor, and Grantor's successors and assigns without notice to or joinder by the Grantee, or any third party any and shall include the right to cancel any easement (a) designated or granted pursuant to the rights reserved hereunder, or (b) listed in Exhibit A-2 hereto.

RESERVING further unto Grantor, and Grantor's successors and assigns, the perpetual right, without notice to or joinder by the Grantee, or any third party, to execute and file of record in the Office of the Assistant Registrar of the Land Court of the State of Hawaii ("Land Court") i) a cancellation or partial cancellation of that certain unrecorded Ewa Marina Acquisition Agreement dated December 15, 1988, a short form of which dated December 30, 1988 is filed in the Land Court as Land Court Document No. 1604009 (and is noted in Exhibit A-2 hereto), and ii) a confirmation, restatement, termination, or partial termination of certain terms, rights, covenants, and reservations in favor of the Trustees under the Will and of the Estate of James Campbell, deceased, as set forth in that certain Deed dated December 22, 1989, which is filed in the Land Court as Land Court Document No. 1693437 (and is noted in Exhibit A-2 hereto).

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances except as noted herein, IT BEING EXPRESSLY STIPULATED that if construction of improvements for school purposes is not commenced on the property described in said Exhibit A hereto by December 31, 2008, then this Deed shall cease and be void and title to said property shall automatically revert to the Grantor, its successors and assigns.

The Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seised in fee simple and possessed of the property conveyed hereby, that it has a good and lawful right to convey the

same as aforesaid, that the same is free and clear of all liens and encumbrances, except as noted herein, and that it will and its successors and assigns, shall WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever.

AND, the Grantee covenants that the conveyance of real property herein has had prior approval by the Attorney General pursuant to section 26-7 and section 107-10, Hawaii Revised Statutes as to legality and form, exceptions, and reservations.

The Grantor agrees to indemnify, defend, and hold Grantee harmless, from any damages and claims resulting from the release of hazardous materials on, about, or near the property described in said Exhibit A hereto by Grantor, or other persons acting through or under Grantor, and occurring while Grantor was in possession of the said property.


For the purpose of this deed "hazardous material" shall mean any pollutant, contaminant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil, as all of the above are defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, Chapter 128D, Hawaii Revised Statutes, or any other federal, state, or local law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced, or subsequently enacted.

IN WITNESS WHEREOF, HASEKO (Ewa), Inc., the Grantor herein, has caused these presents to be executed this 26th day of April, 2005, and the STATE OF HAWAII, by its Board of Land and Natural Resources, the Grantee herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be executed this 26th day of April, 2005, both effective as of the day, month, and year first above written.

HASEKO (EWA), INC.

Approved by the Board of Land and Natural Resources at its meeting(s) held on June 4, 2004

By


Its TORU NAGAYAMA
Its President

GRANTOR

APPROVED AS TO LEGALITY AND FORM:


Deputy Attorney General

Dated: 4/26/05

STATE OF HAWAII

By


Chairperson and Member
Board of Land and Natural Resources

GRANTEE

STATE OF HAWAII

City and

COUNTY OF HONOLULU

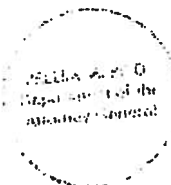
)
)
)
SS.

On this the 27th day of April, 2005, before me,
personally appeared TORU NAGAYAMA, ☒ to me personally known,
who, being by me duly sworn, did say that ~~he is~~ ^{he is} ~~they are~~ ^{he is} the President ~~and~~ ^{and}
respectively, of HASEKO (EWA), INC.,
a Hawaii corporation, and that said instrument was signed in behalf
of said corporation by authority of its Board of Directors, and the said TORU NAGAYAMA
and and acknowledged said instrument to be the
free act and deed of said corporation.

Laura L. T. Nagasawa
Notary Public, State of Hawaii

LAURA L. T. NAGASAWA

My commission expires: 06/28/08



STATE OF HAWAII

COUNTY OF _____

)
)
)

SS.

On this the _____ day of _____, 2005, before me, personally
appeared _____, ☐ to me known to be the person(s) described in
and who executed the foregoing instrument and acknowledged that _____ executed the
same as _____ free act and deed.

Notary Public, State of Hawaii

My commission expires: _____

STATE OF HAWAII

City and
COUNTY OF Honolulu

)
)
)

SS.

On this the 26 day of April, 2005, before me, personally
appeared Peter T. Young, Chairperson and and Member, to me
personally known, who, being by me duly sworn or affirmed, did say that such person(s)
executed the foregoing instrument as the free act and deed of such person(s), and if applicable
in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Alison Y. Miyahira

Notary Public, State of Hawaii

Alison Y. Miyahira

My commission expires: 10/1/08

LS.



STATE OF HAWAII

SURVEY DIVISION

**DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU**

C.S.F. No. 24,021

April 19, 2005

**PROPOSED
OCEAN POINTE ELEMENTARY SCHOOL**

Honouliuli, Ewa, Oahu, Hawaii

Being all of Lot 15789 as shown on Map 1232 of Land Court Application 1069, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii, containing an AREA OF 11.725 ACRES and covered by Transfer Certificate of Title No. 735,659 issued to Haseko (Ewa), Inc.

TOGETHER WITH access over Lots 12587 and 12588 as shown on Map 929 and Lot 15793 as shown on Map 1232 of Land Court Application 1069 as set forth by Land Court Order No. 160235.

SUBJECT, however, to all encumbrances as noted in Transfer Certificate of Title No. 735,659 issued to Haseko (Ewa), Inc.

**SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII**

By: Reid K. Siarot
Land Surveyor

gm

Compiled from Ld.Ct.
Records.

EXHIBIT A

Downloaded from <http://ajphaphysocpharm.sagepub.com/> at 10:06 11 May 2015

EXHIBIT A-1

EXHIBIT A-2

THE LAND DESCRIBED IN EXHIBIT A HERETO IS SUBJECT, HOWEVER, to the following:

1. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain unrecorded Second Amended and Restated Ewa Marina Agreement for Exchange, dated June 30, 1984, effective as of June 30, 1984, by and between F. E. Trotter, Inc., W. H. McVay, Inc., P. R. Cassidy, Inc., and H. C. Cornuelle, Inc., all Hawaii professional corporations, Trustees under the Will and of the Estate of James Campbell, Deceased, acting in their fiduciary and not in their individual corporate capacities ("Estate"), as Vendor, and M.S.M. & Associates, Inc., a Colorado corporation ("MSM"), as Vendee; a short form of which is dated June 30, 1984, recorded as Land Court Document No. 1245392.

Said Agreement was assigned by MSM to HASEKO (Hawaii), Inc., a Hawaii corporation ("HASEKO"), with the consent of the Estate, by that certain Assignment of Lease and Second Amended and Restated Ewa Marina Agreement for Exchange, dated December 30, 1988.

Said Agreement was amended and restated by the Estate and HASEKO by that certain unrecorded Ewa Marina Acquisition Agreement, dated as of December 15, 1988, of which a Short Form Acquisition Agreement is dated December 30, 1988, recorded as Land Court Document No. 1604009.

Said Agreement, as amended and restated, was assigned by HASEKO to HASEKO (Ewa), Inc., a Hawaii corporation, by that certain instrument, dated September 3, 1993, but effective as of January 2, 1992, recorded as Land Court Document No. 2126832, with Consent thereto given by the Estate by that certain instrument dated December 17, 1993, recorded as Land Court Document No. 2126833.

2. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Limited Warranty Deed, dated December 22, 1989, recorded as Land Court Document No. 1693437, including, but not limited to, matters relating to water reservation and agricultural activities, including sugar cane burning on nearby lands.
3. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Unilateral Agreement and Declaration for Conditional Zoning, dated November 29, 1993, recorded as Land Court Document No. 2091140, as amended by that certain Amendment to Unilateral Agreement and Declaration for Conditional Zoning, dated February 12, 2002, recorded as Land Court Document No. 2778785, and further amended by that certain Second Amendment to Unilateral Agreement and Declaration for Conditional Zoning, dated October 23, 2002, recorded as Land Court Document No. 2857087, with Consent and Joinder, dated November 1, 2002, attached thereto as Land Court Document No. 2857088.
4. The terms and provisions, including the failure to comply with any covenants, conditions, and reservations, contained in that certain Document Listing Conditions to Reclassification of Land dated December 12, 1990, recorded as Land Court Document No. 1788412, as amended by instrument, dated March 28, 1994, recorded as Land

Court Document No. 2131779, as further amended by instrument, dated June 17, 1994, recorded as Land Court Document No. 2159248.

5. Grant dated January 3, 1996, recorded as Land Court Document No. 2284736, in favor of Hawaiian Electric Company, Inc., granting a nonexclusive perpetual right and easement for utility purposes.
6. Restriction of vehicular access rights, as shown on Map 1232, as set forth by Land Court Order No. 160235, filed February 18, 2005.
7. Easement 8346 for electrical purposes, as set forth by Land Court Order No. 160235, recorded on February 18, 2005.
8. Easement 8352 for drainage purposes, as set forth by Land Court Order No. 160235, recorded on February 18, 2005.
9. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.





First American Title Company, Inc.

1177 Kapiolani Boulevard
Honolulu, HI 96814

June 08, 2010

Marguerite Daysog
Gentry Homes, Ltd
P.O. Box 295
Honolulu, HI 96809
Phone: (808)599-8272
Fax: (808)599-5347
Customer Reference:

Lot 16887

Title Officer:	Todd Nakamura
Phone:	(808)457-3828
Fax No.:	(866)759-3012
E-Mail:	txnakamura@firstam.com
Order Number:	FAM324168

Buyer:

Property:

Lot 16887
, HI

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

First American Title

EXHIBIT "F"

Order Number: FAM324168 (tn)

Page Number: 2

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of June 03, 2010 at 8:00 A.M.

The form of Policy of title insurance contemplated by this report is:
NONE

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

Gentry Homes, Ltd., a Hawaii corporation

The estate or interest in the land hereinafter described or referred to covered by this Report is:

Fee Simple.

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. Real property tax assessments for the fiscal year 2009-2010:

Tax Map Key No.: (1) 9-1-069-027-0000

Class No.: A

First Installment: \$50.00, PAID

Second Installment: \$50.00, PAID

2. Title to all mineral and metallic mines reserved to the State of Hawaii.

3. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in:

DECLARATION OF LAND USE COMMISSION CONDITIONS

Dated: July 12, 1991

Recorded: Document No. 1836142

to which reference is hereby made, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS, as amended

4. UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

Dated: July 12, 1994

Recorded: Document No. 2163448

5. UNRECORDED FOURTH AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND INFRASTRUCTURE PLAN

By And Between: THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, acting in their fiduciary and not in their individual capacities ("ESTATE"); and GENTRY INVESTMENT PROPERTIES, a Hawaii limited partnership ("GENTRY")

The foregoing unrecorded Agreement was set forth by the following:

SHORT FORM MEMORANDUM OF INFRASTRUCTURE PLAN
(Fourth Amended and Restated Development Agreement)

Effective As Of: June 15, 2000

Recorded: Document No. 2634847

NOTE:

Pursuant to the last sentence in the 2nd paragraph on page 3 of the document, "This Memorandum shall in any event terminate with respect to any roads, infrastructure or other improvements dedicated to any government authority or utility."

6. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in:

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ON USE AND
RESERVATIONS
(LAULANI PARCEL)

Dated: September 30, 2003

Recorded: Document No. 3002899

to which reference is hereby made, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS, as amended

NOTE:

Pursuant to the last sentence in paragraph 12 on page 5 of the document, "This Declaration shall in any event terminate with respect to any roads, infrastructure or other improvements dedicated to any government authority or utility."

7. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in:

LIMITED WARRANTY DEED AND USE RESTRICTIONS
(LAULANI PARCEL)

Dated: September 30, 2003

Recorded: Document No. 3002900

to which reference is hereby made, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS, as amended

NOTE:

Pursuant to the 2nd to the last sentence in the 2nd to the last paragraph on page 3 of the document, "These restrictions shall terminate as to any portion of the Property dedicated to any governmental authority or public utility company."

8. NOTICE OF IMPOSITION OF CONDITIONS BY THE LAND USE COMMISSION

Dated: December 1, 2003

Recorded: Document No. 2003-269381

(Not noted on Transfer Certificate of Title referenced herein)

9. Covenants, conditions, restrictions, reservations, agreements, obligations, easements and other provisions set forth in:

DECLARATION OF LAND USE CONDITIONS

Dated: February 9, 2004

Recorded: Document No. 3068154

to which reference is hereby made, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c) or Section 515-6, HRS, as amended

10. **UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING**

Dated: March 16, 2004

Recorded: Document No. 3084363

11. **RESTRICTION OF VEHICULAR ACCESS RIGHTS** as set forth by:

Land Court Order No.: 167388, Map 1304

Recorded: August 28, 2006

12. **EASEMENT 8975** (area 7,711 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304

Recorded: August 28, 2006

Purpose: Traffic pavement markings, traffic control signaling, utility and pedestrian crossing

13. **EASEMENT 8976** (area 1,968 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304

Recorded: August 28, 2006

Purpose: Traffic pavement markings, traffic control signaling, utility and pedestrian crossing

14. **EASEMENT 8977** (area 35,184 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304

Recorded: August 28, 2006

Purpose: Flowage, sewer and drainage

15. EASEMENT 8981 (area 1,531 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304
Recorded: August 28, 2006
Purpose: Landscaping and irrigation
16. EASEMENT 8983 (area 3,294 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304
Recorded: August 28, 2006
Purpose: Landscaping and irrigation
17. EASEMENT 8994 (area 1,590 square feet, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304
Recorded: August 28, 2006
Purpose: Irrigation
18. EASEMENT 9010 (area 0.042 acre, more or less) as set forth by:

Land Court Order No.: 167388, Map 1304
Recorded: August 28, 2006
Purpose: Flowage, landscaping and irrigation
19. EASEMENT 9564, (area 7,711 square feet, more or less) as set forth by:

Land Court Order No.: 175341, Map 1395
Recorded: June 23, 2008
Purpose: Utility
20. EASEMENT 9565, (area 31,380 square feet, more or less) as set forth by:

Land Court Order No.: 175341, Map 1395
Recorded: June 23, 2008
Purpose: Drainage
21. EASEMENT 9566, (area 58,000 square feet, more or less) as set forth by:

Land Court Order No.: 175341, Map 1395
Recorded: June 23, 2008
Purpose: Access

22. GRANT OF EASEMENT

In Favor Of: HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation,
and HAWAIIAN TELECOM, INC., a Hawaii corporation
Dated: March 4, 2009
Recorded: Document No. 3840793
Purpose: Granting an easement for utility and incidental purposes over,
under, across and through said Easement 9564

INFORMATIONAL NOTES

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

LEGAL DESCRIPTION

That certain parcel of land situate at Honouliuli, Ewa, City and County of Honolulu, State of Hawaii, described as follows:

Lot 16887, area 18.670 acres, more or less, as shown on Map 1304, filed in the Office of the Assistant Registrar of the Land Court, State of Hawaii with Land Court Application No. 1069 of the Trustees of the Estate of James Campbell.

Being a portion of the lands described in Transfer Certificate of Title No. 889,446 issued to GENTRY HOMES, LTD., a Hawaii corporation.

NOTE:

As set forth by Land Court Order No. 167388, recorded on August 28, 2006, Lot 16887 shall have access to Geiger Road, a public roadway, over Lot 16885, as shown on Map 1304 of said Land Court Application No. 1069. Said Lot 16885 is a Roadway access Lot that connects with Roadway Access Lot 7695, as shown on Map 622 of said Land Court Application No. 1069.

TMK(S): (1) 9-1-069-027-0000

EXHIBIT A
LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS (BY POLICY TYPE)

1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990
SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
(c) resulting in no loss or damage to the insured claimant;
(d) attaching or created subsequent to Date of Policy; or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by their policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

2. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
SCHEDULE OF EXCLUSIONS FROM COVERAGE

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions of area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or

created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.

**3. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY FORM B - 1970
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 2 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

**4. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
SCHEDULE OF EXCLUSIONS FROM COVERAGE**

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or a reduction in the dimensions or area of the land, or the effect of any violation of any such law ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant, (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder, (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy).
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

**5. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1970
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association Lenders Policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy, the exclusions set forth in paragraph 4 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage by reason of the matters shown in parts one and two following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

**6. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992
WITH A.L.T.A. ENDORSEMENT FORM 1 COVERAGE
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy; (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

**7. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY - 1992
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 6 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

8. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992

First American Title

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

9. AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY - 1992 WITH REGIONAL EXCEPTIONS

When the American Land Title Association policy is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 8 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

10. AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY - 1987 EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:

* land use	* land division
* improvements on the land	* environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.
This exclusion does not limit the zoning coverage described in items 12 and 13 of Covered Title Risks.
2. The right to take the land by condemning it, unless:

- * a notice of exercising the right appears in the public records on the Policy Date
- * the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking.
- 3. Title Risks:
 - * that are created, allowed, or agreed to by you
 - * that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
 - * that result in no loss to you
 - * that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
- 4. Failure to pay value for your title.
- 5. Lack of a right:
 - * to any land outside the area specifically described and referred to in Item 3 of Schedule A, or
 - * in streets, alleys, or waterways that touch your landThis exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

11. EAGLE PROTECTION OWNER'S POLICY

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998 ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE - 1998

Covered Risks 14 (Subdivision Law Violation). 15 (Building Permit). 16 (Zoning) and 18 (Encroachment of boundary walls or fences) are subject to Deductible Amounts and Maximum Dollar Limits of Liability

EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 - a. building
 - b. zoning
 - c. land use
 - d. improvements on the land
 - e. land division
 - f. environmental protectionThis exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.
This exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
 - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
 - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.This exclusion does not limit the coverage described in Covered Risk 11 or 18.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$10,000.00
Covered Risk 15: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 16: 1% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00

Covered Risk 18: 1% of Policy Amount or \$2,500.00 (whichever is less) \$5,000.00

12. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or area of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14 and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
(a) created, suffered, assumed or agreed to by the Insured Claimant;
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
(c) resulting in no loss or damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
(e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8 (e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting title, the existence of which are Known to the Insured at:
(a) The time of the advance; or
(b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification.
This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

**13. SECOND GENERATION EAGLE LOAN POLICY AMERICAN LAND TITLE ASSOCIATION EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)
WITH REGIONAL EXCEPTIONS**

When the American Land Title Association loan policy with EAGLE Protection Added is used as a Standard Coverage Policy and not as an Extended Coverage Policy the exclusions set forth in paragraph 12 above are used and the following exceptions to coverage appear in the policy.

SCHEDULE B

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

First American Title

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.